

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

_____	)	
NANCY CHAREST	)	
Plaintiff,	)	
	)	
ABBY CHAREST	)	
Plaintiff,	)	Case No. <u>1:13-cv-00337-JL</u>
	)	
vs.	)	
	)	
ENHANCED RECOVERY	)	
COMPANY, LLC	)	
	)	
Defendant.	)	
_____	)	

**JOINT DISCOVERY PLAN PURSUANT TO FED. R. CIV. P. 26(f)**

NOW COME THE PARTIES in the above-entitled action and submit the within  
Discovery Plan pursuant to this Court's Notice and Fed. R. Civ. P. 26(f):

**DATE/PLACE OF CONFERENCE:**

Via electronic mail from November 17, 2013 through the date of filing.

**COUNSEL PRESENT/REPRESENTING:**

Plaintiff Represented by: Atty. John F. Skinner, III

Defendant Represented by: Atty. Steven J. Dutton

**CASE SUMMARY:**

Plaintiff seeks to enforce the provisions of the Fair Debt Collection Practices Act and applicable State law for unlawful, unfair, or deceptive debt collection attempts of the defendant.

**THEORY OF LIABILITY:**

- a) Strict Liability under the Fair Debt Collections Practices Act ("FDCPA") 15 USC § 1692 *et seq.*
- b) State Law under RSA 358-C, Unfair, Deceptive Or Unreasonable Collection Practices.
- c) State Law under RSA 358-A, Regulation Of Business Practices For Consumer Protection.
- d) Common Law as Applicable

**THEORY OF DEFENSE:** Denies allegations.

**DAMAGES:**

- a) Statutory Damages of \$1,000 under 15 USC §1692k
- b) Statutory Damages of \$200 *per violation* under RSA 358-C
- c) Statutory Damages of \$1,000 to \$3,000 under RSA 358-A
- d) Actual Damages to be determined by the Trier of Fact.
- e) Attorneys Fees Mandated by 15 USC §1692k
- f) Attorneys Fees under RSA 358-C, 358-A.

**DEMAND:** To be presented after sufficient discovery to conduct due diligence on behalf of the plaintiff.

**OFFER:** None yet presented.

**JURISDICTIONAL QUESTIONS:** None

**TYPE OF TRIAL:** Jury

**DISCOVERY**

**TRACK ASSIGNMENT:** *STANDARD--12 MONTHS*

**DISCOVERY NEEDED:**

Both parties intend to serve interrogatories, requests for production of documents, and all other permissible discovery methods. Defendant will need to make complete disclosure of all debt collection records. The parties, at this time, do not expect that expert discovery will be necessary.

**MANDATORY DISCLOSURES (Fed. R. Civ. P. 26(a)(1))**

To be provided not later than December 13, 2013.

**ELECTRONIC INFORMATION DISCLOSURES (Fed. R. Civ. P. 26(f))**

The parties agree that electronic discovery requests and responses will be limited to reasonably accessible data that will be produced in .pdf format via the Internet or on CD-ROM or DVD with bates-stamp numbering, along with any required privilege log. If at any point during this litigation, any party seeks production of electronically-stored information in electronic form other than .pdf, the parties agree to meet and confer in good faith regarding the scope of the requests and the costs and burdens associated with producing that information.

The parties agree to act in good faith to preserve potentially discoverable material, including electronically-stored information that is reasonably accessible.

**COMPLETION OF DISCOVERY:** April 18, 2014

**INTERROGATORIES:**

35 interrogatories by each party to any other party. Responses due 30 days after service unless otherwise agreed to pursuant to Fed. R. Civ. P. 29.

**REQUESTS FOR ADMISSION:**

A maximum of 50 requests for admission by each party to any other party. Responses due 30 days after service unless otherwise agreed to pursuant to Fed. R. Civ. P. 29.

**DEPOSITIONS:**

Maximum of 7 Depositions by each party.

Depositions limited to 7 hours each.

No individual to be deposed for more than 12 hours total except by agreement of the parties.

**DATES OF DISCLOSURE OF EXPERTS AND EXPERTS' WRITTEN REPORTS AND SUPPLEMENTATIONS:**

**Plaintiff:** February 28, 2014 **Defendant:** April 15, 2014

**Supplementations under Rule 26(e) due:** Within 30 days.

**CHALLENGES TO EXPERT TESTIMONY:** No later than 60 days prior to trial.

**OTHER ITEMS**

**DISCLOSURE OF CLAIMS AGAINST UNNAMED PARTIES:**

*If defendant(s) claim that unnamed parties are at fault on a state law claim (see DeBenedetto v. CLD Consulting Engineers, Inc., 153 N.H. 793 (2006)), defendant(s) shall disclose the identity of every such party and the basis of the allegation of fault no later than November 29, 2013. Plaintiff shall then have 30 days from the date of disclosure to amend the complaint.*

**THIRD-PARTY ACTIONS:** December 31, 2013

**JOINDER OF ADDITIONAL PARTIES:** March 8, 2014

**AMENDMENT OF PLEADINGS:** March 8, 2014

If any party makes an Amendment, Joinder, or third party action, the other parties shall have 21 days to respond by Amendment, Joinder or third party action or as otherwise allowed by law or rule.

**DISPOSITIVE MOTIONS:**

**To Dismiss:** January 31, 2014

**For Summary Judgment:** May 5, 2014

*due date [no later than 120 days prior to trial date according to track. The fact that the discovery deadline may post-date the summary judgment deadline is not a sufficient basis to request a continuance of the summary judgment deadline.]*

**SETTLEMENT POSSIBILITIES:**

1. Have not been evaluated with the Defendant, but Plaintiff is amenable.
2. May be enhanced by ADR:
  - a. Plaintiff and Defendant are open to Court sponsored mediation at the appropriate time.

**JOINT STATEMENT RE MEDIATION:**

Parties will inform the Court if Mediation is requested prior to the Summary Judgment Deadline.

**WITNESSES AND EXHIBITS:** [No dates necessary; due dates--10 days before final pretrial conference but not less than 30 days before trial for lists (included in final pretrial statements) and 14 days after service of final pretrial statement for objections--set by clerk's notice of trial assignment.]

**TRIAL ESTIMATE:** One to two days.

**TRIAL DATE:** The two week period beginning September 04, 2014.

**PRELIMINARY PRETRIAL CONFERENCE:**

The Court has advised the Parties that the conference will take place as scheduled.

**OTHER MATTERS:**

None at this time.

DATED: November 20, 2013

Respectfully submitted,  
Plaintiffs, Nancy Charest and Abby Charest

By His Attorney

/s/ John F. Skinner, III  
Atty. John F. Skinner, III NHBN: 19886  
Skinner Law PLLC  
530 Chestnut Street, 3rd Floor  
Manchester, NH 03101  
Tel: (603) 622-8100  
Fax: (888) 912-1497  
AttorneySkinner@gmail.com

Respectfully submitted,  
Defendant, Enhanced Recovery Company, LLC

By Its Attorneys

/s/ Steven J. Dutton  
Mark C. Rouvalis, Bar No. 6565  
mark.rouvalis@mclane.com  
Steven J. Dutton, NH Bar No. 17101  
steven.dutton@mclane.com  
McLane, Graf, Raulerson & Middleton  
Professional Association  
900 Elm Street, P.O. Box 326  
Manchester, New Hampshire 03105-0326  
(603) 625-6464

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants as of the date of filing.

/s/ Steven J. Dutton

Dated: November 20, 2013